THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.20221 of 2007

Date : 27-11-2007

Between :

V.Padmavathi .. Petitioner

And

The Director of Civil Supplies,
Hyderabad
and others ..
Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.20221 of 2007

ORDER:

1. Heard the Counsel.

2. W.V.M.P.No.2944/2007 is filed to vacate the interim order granted on 24-9-2007 and to pass such other suitable orders.

3. A reply affidavit also is filed and the Counsel on record made submissions and further made a request to dispose of the Writ Petition itself and hence the Writ Petition itself is being disposed of finally.

4. The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondents in issuing notification in Rc.No.B/1521/2007 dated 11-9-2007 for filling up the post of permanent Fair Price Shop Dealer at Shop No.10 of Ullindakonda Village, Kallur Mandal, Kurnool District as illegal, arbitrary, in violation of principles of natural justice, Article 14 of the Constitution of India and consequently to direct the respondents to

appoint the petitioner for the post of permanent Fair Price Shop Dealer at Shop No.10 of Ullindakonda Village, Kallur Mandal, Kurnool District duly considering the representation and to pass such other suitable orders.

5. In the affidavit filed in support of the Writ Petition it is stated that the petitioner is a permanent resident of Ullindakonda Village and he had been given authorization to run Fair Price Shop No.10 on temporary basis by proceedings in Rc.No.B/489/2005 dated 6-9-2005 and since then the petitioner had been continuing as Fair Price Shop Dealer and discharging her duties without any remarks. It is further stated that while things stood thus, the 3rd respondent issued a notification in Rc.No.B/1521/2007 dated 11-9-2007 for appointment of Fair Price Shop Dealer in the existing vacancies of Shop No.18, 23, 26, 8 and 10 and Shop No.10 had been earmarked for Schedule Tribe candidate and the notification invited applications from the eligible candidates were to appear for interviews on 25-9-2007. As per the notification, only Schedule Tribe candidates are eligible for interview for Shop No.10 and as such there is no opportunity for the petitioner to make an application for permanent dealership even though he had been given authorization to run the Fair Price Shop on temporary

basis. It is further stated that there are no candidates belonging to Schedule Tribe in the village of Ullindakonda and no applications were received from the eligible candidates for permanent Fair Price Shop and hence the petitioner approached the 3rd respondent requesting him to consider the case of the petitioner for permanent Fair Price Shop Dealer of Ullindakonda as there are no eligible candidates in the Village. It is further stated that the petitioner made a representation to the 2nd respondent to consider her case for permanent Fair Price Shop Dealership of Shop No.10 as the petitioner belongs to Backward Class community. It is further stated that the respondents did not take into consideration the representation of the petitioner and had been contemplating to proceed further for conducting interview for Shop No.10 even though they did not receive any applications from the eligible candidates of the Village. It is also further stated that the petitioner is having no other source of income except the income derived from the running of the Fair Price Shop.

6. In the counter affidavit filed it is stated that it is not correct to state that the writ petitioner had requested for her appointment as Fair Price Shop Dealer on permanent basis and she never made any such

representation. It is further submitted that no authorization was issued to her to run the Fair Price Shop No.10. Further, with an intention to give notification for filling up the vacancy on permanent basis, the petitioner was not given any authorization so far. The petitioner was appointed vide proceedings No.Rc.B.489/2005 dated 6-9-2005 purely on temporary basis and in the said proceedings it was clearly stated in the last para that "The Fair Price Shop Dealer is informed that she may be terminated at any time without prior notice and the temporary appointment does not derive any right at the time of filling up of the F.P. shop vacancy on permanent basis". It is further stated that it is a fact that the 3rd respondent had issued a notification on 11-9-2007 in Rc.No.B/1521/2007 for filling up of S.T. vacancy in Ullindakonda Village and also for Fair Price Shops where Fair Price Shop Dealers are working on temporary basis in other Villages. It is admitted that the Fair Price Shop No.10 located at Ullindakonda Village is earmarked for S.T. candidates and that as per the aforesaid notification only candidates relating to S.T. community are eligible for apply. Further it is stated that as per G.O.Ms.No.53, Consumer Affairs, Food and Civil Supplies (CS.I) Department, dated 6-10-2003, rule of reservation should

be followed and 6% is to be allotted to S.T. in the Division. In Kurnool District, there are three Revenue Divisions viz., Kurnool, Adoni and Nandyal. In Kurnool Revenue Division there are 862 F.P. Shops. As per 6% reservation 52 F.P. Shops have to be allotted to S.T. in the Kurnool Revenue Division irrespective of particular Shop, but at present there are only 15 F.P. Shop Dealers who belong to S.T. working in the Kurnool Division. With an intention to fulfill the required quota of 6%, the F.P. Shop No.10 at Ullikonda Village where S.T. population is 419 is reserved for S.T. The remaining Fair Price Shop Nos.8 (Chetlamallapuram Village), 18 (Remadur Village), 23 (Peddakottala Village) and 26 (K.Markapuram Village) do not have any S.T. population and hence not allotted to Schedule Tribes in the said Villages. There is no mala fide intention in allotting the F.P.Shop No.10 to S.T. and hence the petitioner cannot contend that the said shop is to be allotted to B.C. candidate. Further it is averred that it is not correct to state that there are no candidates belonging to Schedule Tribes in Ullindakonda Village. The population of Ulidakonda Village is 419 which includes Kollampalli Thanda and Errakatva hamlet Villages where the Schedule Tribe families are available. Further it is stated that it is not correct to say that no applications were received from the eligible candidates in

response to the notification. In fact six applications were received out of which four applicants belong to Schedule Tribe and other two belong to Backward Class community i.e., the petitioner and her husband. All the four applicants who belong to Schedule Tribe community are eligible for appointment as Fair Price Shop Dealers as they possess S.S.C. qualification. As per Condition 8 of G.O.Ms.No.53, Consumer Affairs, Food and Civil Supplies (CS.I) Department, dated 6-10-2003, the candidate shall be a resident of Gram Panchayat in which the Fair Price Shop is located. Kollampalli Thanda Village which is a hamlet Village of Ullindakonda Village is having 99% S.T. population. However, in view of status quo orders, no further steps had been taken. It is further stated that it is not correct to say that the respondents had taken steps to fill up the vacancy with the candidates from other Villages. The Schedule Tribe candidates applied for are residents of Kollampalli Thanda Village, H/o. Ullindakonda (main Village).

7. As aforesaid, reply affidavit also had been filed again asserting the averments made in the affidavit filed in support of the Writ Petition.

8. The main grievance of the writ petitioner is that in the vicinity of the concerned Shop, there are no

Schedule Tribe candidates at all and further specific stand had been taken that she is deprived of the opportunity since the petitioner belongs to Backward Class community. In the light of the respective stands taken by the parties, this Court is of the considered opinion that these are all factual controversies which cannot be gone into in a Writ Petition. Apart from this aspect of the matter, the petitioner is having effective alternative remedy by way of Appeal to the concerned Joint Collector. In the light of the same, the Writ Petition is disposed of permitting the petitioner to avail the alternative remedy by filing an Appeal before the appropriate authority within a period of four weeks and till then *status quo* as on today to be maintained. No order as to costs.

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Justice P.S.Narayana

Date : 27-11-2007

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